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BOARD OF NURSING

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LEGISLATIVE UPDATE

**Nurses Accepting Orders From Optometrists**

Governor Tommy Thompson signed SB 331 into law on March 3, 1998. The new law 1997 Wisconsin Act 62 provides that registered nurses and licensed practical nurses may accept orders from optometrists *licensed in Wisconsin as of March 18, 1998*. Nurses may accept orders from optometrists who are *licensed in another state* and who prepare orders after examining a patient in another state **as of May 1, 2000**.

**SB 315 - Office on Health Care Information (OHCI).** This bill eliminated the Office of Health Care Information as it was currently designed. OHCI was recreated with changes that included the transfer of the functions of collection, analysis, and dissemination of health care information to the Department of Health and Family Services. There were many amendments added to SB 315 prior to passage. SB 315 includes a provision for a Registered

Nurse to serve as a member of the newly created board. Governor Tommy Thompson signed this bill into law April 30, 1998, with partial veto.

**SB 380/AB 927 - Managed Care.** There were a number of managed care bills introduced this legislative session which focused on consumer protection. SB 380/AB 927 are two companion bills which have received a lot of support. WNA supported SB 380/AB 927 because the bill includes provisions for increased consumer protection. It allows access to advanced practice nurse prescriber services, and it promotes adequate/appropriate regulation of managed care organizations. These bills died in the regular legislative session.

**SB 361 - Administration of Drugs and Devices by Pharmacists.** SB 361 was passed with a number of amendments that the Wisconsin Nurses Association (WNA) supported. This bill allows pharmacists to administer vaccines to adults 18 years old and older and allows pharmacists to administer medications to a patient during the process of teaching self-administration of medication. Governor Tommy Thompson signed this bill into law April 9, 1998.

**AB 638 - Statewide Trauma Care System.** AB 638 passed both the Assembly and Senate. The bill

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includes provisions for two Registered Nurse positions as members of the Trauma Advisory Council.	

Governor Tommy Thompson signed this bill into law April 21, 1998.

### **Guidelines to Nursing Administrators**

"Guidelines to nursing administrators to help define when to report to the licensing board, especially regarding medication administration, documentation or other breaches of standards..." A hospital or other medical facility may of course establish internal policies or guidelines relating to reporting unprofessional conduct by nurses to the board. The board's practice standards and requirements, however, are established by rulemaking rather than by guideline, and the rule in regard to reporting unprofessional conduct to the board is found at sec. N 7.04(3), Code, which states as follows:

**N 7.04 Misconduct or unprofessional conduct.** As used in s. 441.07(1)(d), Stats., "misconduct or unprofessional conduct" means any practice or behavior which violates the minimum standards of the profession necessary for the protection of the health, safety, or welfare of a patient or the public. "Misconduct or unprofessional conduct" includes, but is not limited to, the following:

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(3) Failing to report to the board or to institutional supervisory personnel any violation of the rules of this chapter by a licensee. This provision does not require a nurse to report treatment information which would fall within the nurse-patient privilege set forth in s. 9051.04(1)(b), Stats.;

Under the cited provision, a nursing facility has discretion to determine whether misconduct by a nursing employee should be reported to the board or handled internally, and a newsletter article establishing reporting guidelines would be inconsistent with the rule.

### **Governor Tommy Thompson Appoints New Board Members**

Marilyn Panka has been appointed to the Board of Nursing. She graduated from the Practical Nurse Program of Madison Tech. School. Since graduation in 1969 she has worked at Memorial Hospital at Prairie du Chien, Wisconsin. She is married and is the mother of five children and has five grandchildren. Marilyn has been actively involved as a Reach to Recovery Volunteer. A facilitator for a cancer support program. Participant coordinator of other volunteer work and fund raisers as the need arises. She enjoys crafts, looking for antiques, auctions, fishing, outside activities-hiking, camping, reading-and her grandchildren.

Linda Sanner, R.N., B.S., C.P.H.Q. has been appointed to the Wisconsin Board of Nursing. Mrs. Sanner brings twenty-five years' experience in healthcare to the board. In 1973, she graduated from the University of Wisconsin in Madison with her B.S. in nursing. She worked in clinical nursing for many years, specializing in critical and emergency care. Her experience includes administrative nursing, critical care nursing education, and most recently quality improvement and risk management. She has written a number of articles on Quality and Risk Management topics for publication. Mrs. Sanner is board certified in healthcare quality (C.P.H.Q.).

Joel D. Garlock, CPA has been appointed as a public member of the Board of Nursing. Mr. Garlock's areas of specialization as a CPA include: consultant and advisor for small business; part-time Controller/CFO; tax planning and preparation with CCH Software; computerized accounting with Peachtree Software; estate planning; marketing plans; and strategic planning facilitation. Professional activities include: member of American Institute of Certified Public Accountants; Wisconsin Institute of Certified Public Accountants (past chair of Political Action Committee); Wisconsin Accounting Examining Board (for 8 years, ending 10/31/97); International Association of Financial Planner; and past president of Wisconsin Institute of Certified Public Accountants, Northern Chapter. Community involvements have been: president of Winneconne Chamber of Commerce; president of Winneconne Rotary; member of Fox Cities Chamber of Commerce; member of Oshkosh Chamber of Commerce; and past Treasurer and Director of Future Neenah, Inc.

### **Red River Reunion**

Red River Community College is holding a reunion/special function on June 19, 1998, for former nursing diploma graduates. Phone: (204) 632-2258.

### **Advanced Practice Nurse Prescribers**

According to sec. N8.03(3), Wis. Adm. Code, applicants for initial certification as advanced practice nurse prescribers who are certified in their specialty area **after July 1, 1998** must hold a master's degree in nursing or a related health field. The master's degree must also be granted by a college or university accredited by a regional accrediting agency approved by the state board of education in the state in which the college or university is located.

The applicant who is certified as a nurse practitioner, certified nurse-midwife, certified registered nurse anesthetist or clinical nurse specialist after July 1, 1998 must provide the following to the Board of Nursing:

1. The **date of certification** granted by the national certifying body in the specialty area;

2. Certification of the grant of the master's degree in nursing or a related health field from, **and submitted directly to the board by a college or university** accredited by a regional accrediting agency approved by the state board of education in the state in which the college or university is located.

The master's degree requirement for initial certification and recertification as an advanced practice nurse prescriber does not apply to applicants who receive national certification in their specialty area prior to or on July 1, 1998.

### **Boards of Nursing Approve Proposed Language for an Interstate Compact for a Mutual Recognition Model of Nursing Regulation**

In special session of the Delegate Assembly of the National Council of State Boards of Nursing held in Chicago, December 14-15, 1997, delegates approved the proposed language for an interstate compact in support of a standard approach to a mutual recognition model for nursing regulation. Fifty-eight of 61 boards of nursing voted.

With this action, the National Council continues to assist member boards of nursing to implement the model of mutual recognition for nursing regulation. Under this model, a nurse will hold a license in one state (state of residency) and will be able to practice in any state that has signed onto the interstate compact, provided the nurse follows the laws and regulations of the state in which he/she practices.

For implementation to occur, states need to take the compact language to their legislatures for enactment. Delegates agreed to strongly recommend that states who adopt the interstate compact include an implementation date no earlier than January 1, 2000. Prior to implementation, the coordinated licensure information system and all necessary supporting services are to be fully operational.

Delegates entered into an in-depth, seven-hour discussion of the proposed interstate compact, examining each article individually. No substantive changes to the proposed language were identified and the proposed language was approved. Also approved was a list of ten implementation strategies, including:

- provide assistance to Member Boards regarding transition issues (e.g., operating parallel systems and revenue recovery).
- Provide support to Member Boards who choose to implement mutual recognition (e.g., readiness assessment tool, coalition building, and legislative strategy development.)
- Disseminate materials to support education and communication of the mutual recognition model to consumers, licensees, regulatory groups,

employers, nursing and other professional organizations.

- Implement a planned approach to demonstration projects on various aspects of the model.
- Confirm data elements and policies, and implement the coordinated information system as it relates to mutual recognition.
- Determine a governance structure and funding mechanism for the compact administrators group.
- Develop model compact administrative rules to facilitate and coordinate implementation of the compact.
- Establish model compact administration procedures.
- Seek external funding resource for activities such as discipline demonstration projects, information system, telecommunications and educational resources.
- Collaborate with consumers, professional organizations and governmental entities external to the National Council to implement the mutual recognition model.

The Board of Directors was directed to develop additional strategies for implementation of the mutual recognition model as they deem necessary and appropriate by the 1998 Delegate Assembly, scheduled for August 3-8, 1998, in Albuquerque, New Mexico. Delegates also directed the Board to identify for the 1998 Delegate Assembly in the additional incremental cost to Member Boards and to the National Council of implementing the coordinated licensure information system and the strategies for the mutual recognition compact.

"Boards of nursing should be commended for their foresight in progressing further toward mutual recognition," said Tom Neumann, President of the National Council. "Enactment of this language for nursing regulation will reduce many of the real or perceived barriers to health care delivery while continuing to protect the public health, safety and welfare."

"Nursing regulation remains in the forefront of this movement to reform regulatory processes," said Laura Poe, director-at-large and liaison to National Council's Multistate Regulation (MSR) Task Force. The nine member MSR Task Force is chaired by Joan Bouchard (Oregon) and includes representatives from across the country. Since August 1996, the MSR Task Force has thoroughly researched multiple sources to identify the magnitude of the need for multistate practice. The sources included surveys of member boards of nursing, surveys of a sample nurse population, and interviews with key leaders in the health care delivery system. Interviews with attorneys general and other legal consultants were part of this year-long exploration. More information about the mutual recognition model

of nursing regulation and the activities of the MSR Task Force can be found on National Council's World Wide Web site at <http://www.ncsbn.org>.

The National Council has taken this step in regulatory reform to meet the needs of a changing health care delivery environment for the following reasons:

- New practice modalities and technology are raising questions regarding issues of current compliance with state licensure laws.
- Nursing practice is increasingly occurring across state lines.
- Nurses are practicing in a variety of settings and using new technologies which may occur across state lines.
- Expedient access to qualified nurses is needed and expected by consumers without regard to state lines.
- Expedient authorization to practice is expected by employers and nurses.
- Having a nurse demonstrate the same licensure qualifications to multiple states for comparable authority to practice is cumbersome and is neither cost-effective nor efficient.

"Every nurse will be affected by this revolutionary change," said Joan Bouchard, chair of the National Council's Multistate Regulation Task Force. "On behalf of the MSR Task Force, I applaud our visionary delegates who supported this important step for nursing. I'm proud that we continue to be the leader in health care regulation."

*The National Council of State Boards of Nursing, Inc., is the organization through which boards of nursing act and counsel together on matters of common interest and concern affecting the public health, safety and welfare, including the development of licensure examinations for nursing.*

*The mission of the National Council of State Boards of Nursing is to lead in nursing regulation by assisting Member Boards, collectively and individually, to promote safe and effective nursing practice in the interest of protecting public health and welfare.*

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### **Discipline**

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A registered nurse encouraged and developed a personal relationship with a psychiatric inpatient to whom he was providing nursing services, and engaged in sexual contact with the patient following her discharge, within one year after termination of professional services, in violation of sec. N 7.04, Code. License suspended for at least 2 years, effective 11/13/97.

Errors were made by a professional nurse in the assessment of a patient, in violation of secs. N 7.03(1)(b), (c) & (d), Code. Ordered on 1/30/98 to complete continuing education.

On 1/29/88, the board found that an R.N. Failed to recognize and prevent the use of excessive force against a patient in her care, in violation of sec. N 7.03(1). She was reprimanded.

A registered nurse failed to perform the treatment she recorded as having completed, in violation of sec. N 7.03(1)(d) and N 7.04(6). Ordered to complete education, effective 1/29/98.

A professional nurse engaged in a personal relationship with a patient which included sexual contact. License suspended for 3 years following a finding by the board on 2/10/98 that she had violated sec. 441.07(1)(d), Stats. and N 7.04(11), Code. She was also ordered to pay costs.

An R.N. was diagnosed as suffering from opioid dependence, in violation of secs. N 7.03(2), N 7.04(1), (2) and (15). The license was suspended indefinitely. He may petition for a stay in the future at which time the board may stay the suspension for periods of three months conditioned upon respondent's participation in a drug treatment program. Effective 11/14/97.

A licensed practical nurse was convicted of one count of forgery, a misdemeanor, and one count of intentional falsification of a health care record, a misdemeanor. License suspended for six months and thereafter limited after a finding on 1/30/98 that she violated Sec. 441.07(1)(b) and (d), Stats., and N 7.04(1), (13), (14) and (15), Code.

A registered nurse was found to have violated N 7.03 and N 7.04 (15)code for not having met the minimum standard of practice because the criteria for safe medication administration was not followed, i.e., incorporating the procedure of checking the labeling of the medication, both front and back, three times against the Medication Administration Record. Reprimanded and ordered to complete an approved course of evaluation and training in medication administration., effective 11/13/97.

A licensed practical nurse failed to administer ordered medications, failed to make appropriate documentation in patient records, and required constant supervision due to major medication errors, all in violation of secs. 441.07(1)(b) to (d), Stats, and secs. N 7.03(1)(a) to (d) and N 7.04(1) and (15), Code. Ordered to complete training, and to engage in direct patient care only under the supervision of a registered nurse.

A registered nurse was convicted of two counts of Second Degree Sexual Assault - Sexual Contact by an Employee to a Patient of an Inpatient Health Care Facility. Sentenced to 10 years in the Wisconsin State Prisons and placed on probation for a 20-year period consecutive to the prison sentence. The board found a violation of sec. N 7.04(1), Code, on 11/13/97, and revoked the license.

A registered nurse altered a prescription order, and also suffered relapses in her alcohol dependence treatment, in violation of secs. N 7.03(2) and N 7.04(1) and (15), Code. License suspended indefinitely and limited, effective 1/30/98.

An R.N. was diagnosed with alcohol and cocaine dependence, in violation of secs. N 7.03(2), N 7.04(2) and (15). License suspended with provision for stays conditioned upon participation in treatment. Effective 1/30/98.

Effective 1/30/98, the board suspended the license of an LPN who was found to have diverted medications from a resident for her personal use, in violation of secs. N 7.03(2) and N 7.04(1) and (15), Code. The suspension is stayed with limitations pending completion of treatment.

A professional nurse was found on 11/13/97 to have diverted controlled substances from her place of employment for her personal use. She is not currently practicing and surrendered her license, following a finding that she violated sec. 441.07, Stats. and secs. N 7.03(2), N 7.04(1), (2) and (15), Code.

A registered nurse diverted controlled substances from patient supplies for her personal use. Effective 1/30/98, the license was suspended with provision for three-month stays conditioned upon participation in a drug treatment program. The nurse's actions violated secs. N 7.03(2) and N 7.04 (1), (2) and (15.) Code.

An RN was found to have diverted medication for her own use, replacing the medication with saline solution to avoid detection, in violation of secs. N 7.03(2) and N 7.04(2) and (15), Code. License suspended effective 1/30/98, and stayed conditioned upon participation in treatment.

## **NURSING RENEWAL “ADVANCED PRACTICE”**

### **ALERT**

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The next renewal for Advanced Practice nurse Prescribers will be September 30, 1998. Renewal notices will be mailed out about 6 weeks prior to that date. Please remember to include your Social Security Number on your renewal form.

You will be asked to sign a statement on the back of the renewal form indicating that you have continued to have in effect malpractice liability insurance coverage in the amounts established and required under sec. N 8.08, Code.

**N 8.08 Malpractice insurance coverage. (1)** Advanced practice nurse prescribers who prescribe independently shall maintain in effect malpractice insurance evidenced by one of the following:

(a) Personal liability coverage in the amounts specified in s. 655.23(4), Stats.

### **Sec. 655.23 Limitations of liability; proof of financial responsibility.**

(4) Health care liability insurance, self-insurance or a cash or surety bond under sub. (3)(d) shall be in the amounts of at least...\$400,000 for each occurrence and \$1,000,000 for all occurrences in any one policy year for occurrences on or after July 1, 1988.

(b) Coverage under a group liability policy providing individual coverage for the nurse in the amounts set forth in s. 655.23(4), Stats. An advanced practice nurse prescriber covered under one or more such group policies shall certify on forms provided by the board that the nurse will independently prescribe only within the limits of the policy's coverage, or shall obtain personal liability coverage for independent prescribing outside the scope of the group liability policy or policies.

(2) Notwithstanding sub. (1), an advanced practice nurse prescriber who practices as an employee of this state or a governmental subdivision, as defined under s. 180.0103, Stats., is not required to maintain in effect malpractice insurance coverage, but the nurse shall certify on forms provided by the board that the nurse will prescribe within employment policies.

(5) Every advanced practice nurse who is certified to issue prescription orders shall annually submit to the board satisfactory evidence that he or she has in effect malpractice insurance required by sub. (1).

### **Complaint Procedures**

Because policing of the profession is complaint driven, the Board must rely on professionals in the field as well as unsatisfied customers to file complaints. If you have a complaint about a professional, you can contact the Department for a complaint form at (608) 266-3736 or submit your complaint in writing. Please provide as much information as possible.

Credential holders, if a complaint is filed against you, be aware that you have legal rights to due process. You will be contacted by the Department during the investigative stage and given an opportunity to defend yourself. You may be represented by an attorney.

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**ALL verification requests must be in writing. Requests for verifications to other states must be in writing**, the cost is \$10. Please make out check or money order to the Department of Regulation and Licensing.

### Digest on Web Site

The November 1997 digest is on the Web.

### Visit the Department's Web Site

<http://badger.state.wi.us/agencies/drl/>  
Send comments to [dorl@mail.state.wi.us](mailto:dorl@mail.state.wi.us)

### 1998 Board Meeting Dates

July 9-10, September 17-18, November 5-6

### Wisconsin Statutes and Code

Copies of the Board of Nursing Statutes and Administrative Code can be ordered through the Board Office. Include your name, address, county and a check payable to the Department of Regulation and Licensing in the amount of \$5.28. The latest edition is dated July, 1997.

## Change of Name or Address?

Please photocopy the mailing label of this digest, make changes in name or address, and return it to the Department. Confirmation of changes are not automatically provided.

**WIS. STATS. S. 440.11 ALLOWS FOR A \$50 PENALTY TO BE IMPOSED WHEN CHANGES ARE NOT REPORTED WITHIN 30 DAYS.**

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